

APR 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KHAJIR KHAJIRYAN,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-73321

Agency No. A078-440-551

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2009^{**}

Before: GRABER, GOULD, and BEA, Circuit Judges.

Khajir Khajiryan, a native and citizen of Syria, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal,

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), and we deny the petition for review.

Substantial evidence supports the IJ’s finding that Khajiryan did not demonstrate changed or extraordinary circumstances to excuse the untimely filing of his asylum application. *See* 8 C.F.R. § 1208.4(a)(4), (5); *Ramadan v. Gonzales*, 479 F.3d 646, 656-58 (9th Cir. 2007) (per curiam). Accordingly, Khajiryan’s asylum claim fails.

The record does not compel reversal of the IJ’s conclusion that the detention and interrogations Khajiryan suffered, and the beating Khajiryan’s son endured, did not constitute past persecution. *See Gu v. Gonzales*, 454 F.3d 1014, 1020-21 (9th Cir. 2006); *see also Nagoulko v. INS*, 333 F.3d 1012, 1017 (9th Cir. 2003) (holding that acts of violence against a petitioner’s family do not compel a finding of past persecution). Substantial evidence also supports the IJ’s conclusion that Khajiryan did not establish he faced a clear probability of future persecution if returned to Syria. *See Hakeem*, 273 F.3d at 816-17. Therefore, Khajiryan’s withholding claim also fails.

Substantial evidence supports the IJ's denial of CAT protection because Khajiryan failed to establish that it is more likely than not he would be tortured if returned to Syria. *See El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.